

SIXTY-THIRD DAY

WEDNESDAY, APRIL 30, 1997

PROCEEDINGS

The Senate met at 10:00 a.m. pursuant to adjournment and was called to order by Senator Shapiro.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Galloway, Harris, Haywood, Lindsay, Lucio, Luna, Madla, Moncrief, Nelson, Nixon, Ogden, Patterson, Ratliff, Shapiro, Shapleigh, Sibley, Truan, Wentworth, West, Whitmire, Zaffirini.

The Presiding Officer announced that a quorum of the Senate was present.

Rabbi Elizabeth Dunsker, Congregation Beth Israel, Austin, offered the invocation as follows:

This morning may we be blessed with the courage of our convictions, the strength to follow through, and the wisdom and judgment to see compromises; and let us remember that what we do affects people. Amen.

On motion of Senator Truan and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

CO-AUTHORS OF SENATE BILL 102

On motion of Senator Zaffirini and by unanimous consent, Senators Barrientos, Luna, Madla, Nelson, Truan, and Wentworth will be shown as Co-authors of **SB 102**.

CO-AUTHOR OF SENATE BILL 105

On motion of Senator Nelson and by unanimous consent, Senator West will be shown as Co-author of **SB 105**.

CO-AUTHOR OF SENATE BILL 428

On motion of Senator Fraser and by unanimous consent, Senator Haywood will be shown as Co-author of **SB 428**.

CO-AUTHOR OF SENATE BILL 1220

On motion of Senator Patterson and by unanimous consent, Senator Nelson will be shown as Co-author of **SB 1220**.

CO-AUTHOR OF SENATE BILL 1351

On motion of Senator Shapleigh and by unanimous consent, Senator Zaffirini will be shown as Co-author of **SB 1351**.

CO-AUTHOR OF SENATE BILL 1598

On motion of Senator Ellis and by unanimous consent, Senator Lucio will be shown as Co-author of **SB 1598**.

CO-AUTHORS OF SENATE BILL 1694

On motion of Senator Shapiro and by unanimous consent, Senators Carona and Lindsay will be shown as Co-authors of **SB 1694**.

CO-AUTHORS OF SENATE BILL 1698

On motion of Senator Shapiro and by unanimous consent, Senators Carona and Lindsay will be shown as Co-authors of **SB 1698**.

PERMISSION TO INTRODUCE BILL

On motion of Senator Truan and by unanimous consent, Article III, Section 5 of the Texas Constitution and Senate Rule 7.07(b) were suspended to permit the introduction of the following bill: **SB 1941**

SENATE BILLS ON FIRST READING

The following bills were introduced, read first time, and referred to the committees indicated:

SB 1941 by Haywood

Relating to granting authority for certain County-Municipality Hospital Boards created under Section 265.031, Subtitle C, Title 4, Health and Safety Code to acquire, lease or manage other hospitals within the same county, in order to displace competition with regulation, maintain local control over health care and allow County-Municipality Hospital Boards to benefit from economies of scale.

To Committee on Intergovernmental Relations.

SB 1942 by Madla

Relating to the creation, administration, powers, duties, operation, and financing of the Culberson County Groundwater Conservation District.

To Committee on Natural Resources.

HOUSE BILLS ON FIRST READING

The following bills received from the House were read first time and referred to the committees indicated:

HB 43 to Committee on Criminal Justice.

HB 237 to Committee on Criminal Justice.

HB 423 to Committee on Economic Development.

HB 546 to Committee on Jurisprudence.

HB 658 to Committee on Criminal Justice.

HB 909 to Committee on Economic Development.

HB 2914 to Committee on Natural Resources.

HB 3139 to Committee on Economic Development.

(Senator Truan in Chair)

CAPITOL PHYSICIAN

Senator Sibley was recognized and presented Dr. Jack L. Eidson of Weatherford as the "Doctor for the Day."

The Senate welcomed Dr. Eidson and thanked him for his participation in the "Capitol Physician" program sponsored by the Texas Academy of Family Physicians.

GUESTS PRESENTED

Senator Zaffirini was recognized and introduced to the Senate Baldemar Garza, Mayor of Rio Grande City, and Bill Jones, President of the Texas Young Lawyers Association.

The Senate welcomed its guests.

SENATE CONCURRENT RESOLUTION 78

Senator Carona offered the following resolution:

WHEREAS, **SB 251** has passed the Texas Senate and the Texas House of Representatives and is now in the office of the governor; and

WHEREAS, A clerical correction needs to be made in S.B. No. 251; now, therefore, be it

RESOLVED by the 75th Legislature, That the governor be hereby requested to return Senate Bill No. 251 to the senate for such clerical correction; and, be it further

RESOLVED, That the action of the President of the Senate and the Speaker of the House in signing Senate Bill No. 251 be declared null and void and that the two presiding officers be authorized to remove their signatures from the enrolled bill; and, be it further

RESOLVED, That the enrolling clerk of the senate be instructed to delete "chapter" and substitute "article" on page 2, line 7, of the enrolled bill.

The resolution was read.

On motion of Senator Carona and by unanimous consent, the resolution was considered immediately and was adopted by a viva voce vote.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

Wednesday, April 30, 1997

The Honorable President of the Senate
Senate Chamber
Austin, Texas

Mr. President:

I am directed by the House to inform the Senate that the House has taken the following action:

THE HOUSE HAS PASSED THE FOLLOWING MEASURES:

HB 330, Relating to the form of the ballot and related procedures in connection with certain voters voting on an affidavit; providing criminal penalties.

HB 1230, Relating to the place of detention for juveniles in certain counties and to the use or establishment of certain criminal detention facilities.

HB 2119, Relating to the continuation and functions of the Texas Commission on Alcohol and Drug Abuse; providing penalties.

HB 3062, Relating to comprehensive revisions to Subchapter B, Chapter 56, Code of Criminal Procedure, the Crime Victims' Compensation Act.

HB 3263, Relating to the authorization of an interlocal agreement between taxing units that provides for the disposal of tax foreclosed property at less than market value.

HB 3354, Relating to the operation of the Texas Workers' Compensation Insurance Fund.

HB 3459, Relating to environmental and health and safety audits; providing a penalty.

HB 3522, Relating to the administration and enforcement of the workers' compensation law; providing penalties.

HJR 83, Proposing a constitutional amendment to allow the legislature to prescribe the qualifications of constables.

Respectfully,

/s/Sharon Carter, Chief Clerk
House of Representatives

SENATE BILL 991 ON SECOND READING

On motion of Senator Ellis and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

SB 991, Relating to permitting certain disabled persons to apply for and receive a state parklands passport.

The bill was read second time and was passed to engrossment by a viva voce vote.

SENATE BILL 991 ON THIRD READING

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 991** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SB 991 was read third time and was passed by the following vote: Yeas 31, Nays 0.

GUESTS PRESENTED

Senator Ogden was recognized and introduced to the Senate a group of second-grade students and their teacher from Jordan Episcopal School of Crockett.

The Senate welcomed its guests.

SENATE BILL 998 WITH HOUSE AMENDMENT

Senator Harris called **SB 998** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Floor Amendment No. 1

Amend **SB 998** as follows:

Strike Section 2 and Section 3 of the bill and renumber the subsequent sections appropriately.

The amendment was read.

On motion of Senator Harris, the Senate concurred in the House amendment to **SB 998** by a viva voce vote.

HOUSE BILL 1266 ON SECOND READING

On motion of Senator Patterson and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

HB 1266, Relating to a loan the proceeds of which are used to purchase an interest in a certain trust or entity that owns real property located outside the United States.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 1266 ON THIRD READING

Senator Patterson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1266** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

HB 1266 was read third time and was passed by the following vote: Yeas 31, Nays 0.

BILLS AND RESOLUTIONS SIGNED

The Presiding Officer announced the signing of the following enrolled bills and resolutions in the presence of the Senate after the captions had been read:

SB 997, SB 1386, HB 930, HB 1049, HB 1113, HCR 93, HCR 148

**COMMITTEE SUBSTITUTE
SENATE BILL 1748 ON THIRD READING**

Senator Galloway moved that the regular order of business be suspended and that **CSSB 1748** be placed on its third reading and final passage:

CSSB 1748, Relating to procedures for accepting certain voters at a polling place.

The motion prevailed by the following vote: Yeas 21, Nays 10.

Yeas: Armbrister, Bivins, Brown, Carona, Duncan, Fraser, Galloway, Harris, Haywood, Lindsay, Madla, Nelson, Nixon, Ogden, Patterson, Ratliff, Shapiro, Sibley, Wentworth, West, Zaffirini.

Nays: Barrientos, Cain, Ellis, Gallegos, Lucio, Luna, Moncrief, Shapleigh, Truan, Whitmire.

CSSB 1748 was read third time and was passed by the following vote: Yeas 21, Nays 10. (Same as previous roll call)

REASON FOR VOTE

Senator Lucio submitted the following statement on **SB 1748**:

Even though Senator Galloway accepted my amendment, I feel this bill is unnecessary; as there are already adequate protections in the law.

LUCIO

HOUSE BILL 1414 ON SECOND READING

On motion of Senator Ellis and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

HB 1414, Relating to the creation, powers, and duties of the Community Reinvestment work group.

The bill was read second time and was passed to third reading by a viva voce vote.

RECORD OF VOTE

Senator Shapiro asked to be recorded as "Present-not voting" on the passage of the bill to third reading.

HOUSE BILL 1414 ON THIRD READING

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1414** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Shapiro.

HB 1414 was read third time and was passed by a viva voce vote.

RECORD OF VOTE

Senator Shapiro asked to be recorded as "Present-not voting" on the final passage of the bill.

SENATE BILL 1894 ON SECOND READING

Senator Sibley asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

SB 1894, Relating to the authority of the Commissioner of Insurance to adopt rules for general application.

There was objection.

Senator Sibley then moved to suspend the regular order of business and take up **SB 1894** for consideration at this time.

The motion prevailed by the following vote: Yeas 23, Nays 3.

Yeas: Armbrister, Bivins, Brown, Cain, Duncan, Ellis, Fraser, Gallegos, Galloway, Haywood, Lindsay, Lucio, Madla, Nelson, Nixon, Ogden, Patterson, Ratliff, Shapiro, Sibley, Truan, Wentworth, Zaffirini.

Nays: Moncrief, Shapleigh, West.

Absent: Barrientos, Carona, Harris, Luna, Whitmire.

SB 1894 was read second time and was passed to engrossment by a viva voce vote.

SENATE BILL 1894 ON THIRD READING

Senator Sibley moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1894** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 25, Nays 2.

Yeas: Armbrister, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Galloway, Haywood, Lindsay, Lucio, Madla, Nelson, Nixon, Ogden, Patterson, Ratliff, Shapiro, Sibley, Truan, Wentworth, West, Zaffirini.

Nays: Moncrief, Shapleigh.

Absent: Barrientos, Harris, Luna, Whitmire.

SB 1894 was read third time.

On motion of Senator Sibley and by unanimous consent, further consideration of **SB 1894** was postponed.

Question—Shall **SB 1894** be finally passed?

COMMITTEE SUBSTITUTE**SENATE BILL 96 ON SECOND READING**

On motion of Senator Ellis and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

CSSB 96, Relating to the regulation of political contributions and political expenditures in connection with certain judicial candidates and officeholders; providing a penalty.

The bill was read second time and was passed to engrossment by a viva voce vote.

RECORD OF VOTES

Senator Harris asked to be recorded as voting "Nay" on the passage of the bill to engrossment.

Senator Shapiro asked to be recorded as "Present-not voting" on the passage of the bill to engrossment.

COMMITTEE SUBSTITUTE SENATE BILL 96 ON THIRD READING

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 96** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1, Present-not voting 1.

Yeas: Armbrister, Barrientos, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Galloway, Haywood, Lindsay, Lucio, Luna, Madla, Moncrief, Nelson, Nixon, Ogden, Patterson, Ratliff, Shapleigh, Sibley, Truan, Wentworth, West, Whitmire, Zaffirini.

Nays: Harris.

Present-not voting: Shapiro.

CSSB 96 was read third time and was passed by a viva voce vote.

RECORD OF VOTES

Senator Harris asked to be recorded as voting "Nay" on the final passage of the bill.

Senator Shapiro asked to be recorded as "Present-not voting" on the final passage of the bill.

COMMITTEE SUBSTITUTE SENATE BILL 999 ON SECOND READING

On motion of Senator Fraser and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

CSSB 999, Relating to objections to the assignment of visiting judges.

The bill was read second time and was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 999 ON THIRD READING**

Senator Fraser moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 999** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

CSSB 999 was read third time and was passed by a viva voce vote.

SENATE BILL 99 WITH HOUSE AMENDMENTS

The Presiding Officer laid before the Senate **SB 99** with House amendments. Further consideration was postponed Thursday, April 24, 1997, to a time certain of 11:00 a.m. today.

Question—Shall the Senate concur in the House amendments to **SB 99**?

Senator Patterson again moved that the Senate concur in the House amendments to **SB 99**.

Senator Wentworth offered a substitute motion to not concur in the House amendments to **SB 99** and to appoint a conference committee.

The substitute motion to not concur and to appoint a conference committee prevailed by the following vote: Yeas 16, Nays 15.

Yeas: Duncan, Ellis, Fraser, Gallegos, Haywood, Lindsay, Luna, Moncrief, Ogden, Ratliff, Shapleigh, Sibley, Truan, Wentworth, West, Zaffirini.

Nays: Armbrister, Barrientos, Bivins, Brown, Cain, Carona, Galloway, Harris, Lucio, Madla, Nelson, Nixon, Patterson, Shapiro, Whitmire.

**COMMITTEE SUBSTITUTE
SENATE BILL 1896 ON SECOND READING**

On motion of Senator Sibley and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

CSSB 1896, Relating to reciprocal regulation of insurance companies.

The bill was read second time and was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 1896 ON THIRD READING**

Senator Sibley moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1896** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

CSSB 1896 was read third time and was passed by the following vote: Yeas 31, Nays 0.

MESSAGE FROM THE HOUSE**HOUSE CHAMBER**

Austin, Texas

Wednesday, April 30, 1997

The Honorable President of the Senate
Senate Chamber
Austin, Texas

Mr. President:

I am directed by the House to inform the Senate that the House has taken the following action:

THE HOUSE HAS PASSED THE FOLLOWING MEASURES:**HCR 45**, In memory of Edna Seinsheimer Levin.**HCR 223**, Commemorating April 30, 1997, as Fannin County Day.

SB 293, Relating to the authority of a municipality to create an industrial development corporation and to levy a sales and use tax to carry out the projects of the corporation.
(Amended)

SB 338, Relating to Texas Higher Education Coordinating Board contracts with Texas Chiropractic College and Parker College of Chiropractic.

THE HOUSE HAS GRANTED THE REQUEST OF THE SENATE FOR THE APPOINTMENT OF A CONFERENCE COMMITTEE ON THE FOLLOWING MEASURES:**SB 190**

House Conferees: Naishtat - Chair/Davila/Hilderbran/Madden/McReynolds

Respectfully,

/s/Sharon Carter, Chief Clerk
House of Representatives**HOUSE CONCURRENT RESOLUTION 223**

The Presiding Officer laid before the Senate the following resolution:

HCR 223, Commemorating Wednesday, April 30, 1997, as Fannin County Day.

CAIN

The resolution was read.

On motion of Senator Cain and by unanimous consent, the resolution was considered immediately and was adopted by a viva voce vote.

GUESTS PRESENTED

Senator Cain was recognized and introduced to the Senate a delegation of elected officials and citizens from Fannin County.

The Senate welcomed its guests.

GUESTS PRESENTED

Senator Lindsay was recognized and introduced to the Senate a group of students from Rosedale Christian School of Tomball.

The Senate welcomed its guests.

GUESTS PRESENTED

Senator Madla was recognized and introduced to the Senate representatives of Pfizer, Incorporated, Day at the Capitol.

The Senate welcomed its guests.

HOUSE BILL 1720 ON SECOND READING

On motion of Senator Carona and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

HB 1720, Relating to a disqualification of eligibility for unemployment compensation benefits for periods of partial unemployment caused by a reduction in hours as a result of misconduct.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 1720 ON THIRD READING

Senator Carona moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1720** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

HB 1720 was read third time and was passed by a viva voce vote.

GUEST PRESENTED

Senator Sibley was recognized and introduced to the Senate Sally Cain, the wife of Senator Cain.

The Senate welcomed Mrs. Cain.

SENATE BILL 1663 ON SECOND READING

On motion of Senator Shapiro and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

SB 1663, Relating to the business of selling checks.

The bill was read second time and was passed to engrossment by a viva voce vote.

SENATE BILL 1663 ON THIRD READING

Senator Shapiro moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1663** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SB 1663 was read third time and was passed by a viva voce vote.

(Senator Sibley in Chair)

**COMMITTEE SUBSTITUTE
SENATE BILL 1050 ON SECOND READING**

On motion of Senator Truan and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

CSSB 1050, Relating to artificial processes affecting ownership of coastal public land.

The bill was read second time.

Senator Truan offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 1050**, SECTION 1, as follows:

1) Amend Sec. 33.136(a), in the first sentence by striking "within the coastal zone" and substituting in lieu thereof "on the public beach, as defined in Section 61.001(5), Texas Natural Resources Code".

2) Amend Sec. 33.136(b), in the first sentence, by striking "within the coastal zone" and substituting in lieu thereof "on the public beach".

3) Amend Sec. 33.136(d), by striking "within the coastal zone" and substituting in lieu thereof "on the public beach".

The amendment was read and was adopted by a viva voce vote.

CSSB 1050 as amended was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 1050 ON THIRD READING**

Senator Truan moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1050** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent: Fraser.

CSSB 1050 was read third time and was passed by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 1857 ON SECOND READING**

On motion of Senator Brown and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

CSSB 1857, Relating to transferring certain responsibilities of the Texas Natural Resource Conservation Commission related to certain radioactive materials to the Texas Department of Health.

The bill was read second time and was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 1857 ON THIRD READING**

Senator Brown moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1857** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

CSSB 1857 was read third time and was passed by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE
SENATE BILL 1351 ON SECOND READING**

On motion of Senator Shapleigh and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

CSSB 1351, Relating to the regulation of foreign involvement in commercial motor transportation.

The bill was read second time and was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 1351 ON THIRD READING**

Senator Shapleigh moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1351** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

CSSB 1351 was read third time and was passed by a viva voce vote.

GUESTS PRESENTED

Senator Truan was recognized and introduced to the Senate George A. Williams, retired Chief Deputy Clerk of the House of Delegates in Richmond, Virginia, and his wife Jeannette and daughter Janet Williams.

The Senate welcomed its guests.

**COMMITTEE SUBSTITUTE
SENATE BILL 643 ON SECOND READING**

On motion of Senator Galloway and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

CSSB 643, Relating to the rate applicable to certain successor employers for contributions under the unemployment compensation system.

The bill was read second time and was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 643 ON THIRD READING**

Senator Galloway moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 643** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

CSSB 643 was read third time and was passed by a viva voce vote.

RECESS

On motion of Senator Truan, the Senate at 12:00 noon recessed until 1:15 p.m. today.

AFTER RECESS

The Senate met at 1:15 p.m. and was called to order by Senator Truan.

**COMMITTEE SUBSTITUTE
SENATE BILL 18 ON SECOND READING**

On motion of Senator Gallegos and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

CSSB 18, Relating to the creation of certain municipal management districts; authorizing the issuance of bonds and the imposition of taxes.

The bill was read second time.

Senator Gallegos offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 18** by striking SECTION 3 (page 7, line 69, committee printed version) and SECTION 4 (page 8, line 1, committee printed version) and inserting a new SECTION 3 to read as follows:

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bill to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was read and was adopted by a viva voce vote.

CSSB 18 as amended was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 18 ON THIRD READING**

Senator Gallegos moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 18** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

CSSB 18 was read third time and was passed by the following vote:
Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE
SENATE BILL 19 ON SECOND READING**

On motion of Senator Gallegos and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

CSSB 19, Relating to the creation of the Greater East End Management District; authorizing the issuance of bonds and the imposition of taxes.

The bill was read second time.

Senator Gallegos offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 19** by striking SECTION 3 (page 7, line 67, committee printed version) and SECTION 4 (page 7, line 68, committee printed version) and inserting a new SECTION 3 to read as follows:

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bill to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was read and was adopted by a viva voce vote.

CSSB 19 as amended was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 19 ON THIRD READING**

Senator Gallegos moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 19** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

CSSB 19 was read third time and was passed by the following vote:
Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE
SENATE BILL 1791 ON SECOND READING**

Senator Wentworth asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

CSSB 1791, Relating to the annexation of a portion of certain municipal utility districts.

There was objection.

Senator Wentworth then moved to suspend the regular order of business and take up **CSSB 1791** for consideration at this time.

The motion prevailed by the following vote: Yeas 19, Nays 7.

Yeas: Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Harris, Haywood, Lindsay, Moncrief, Nelson, Nixon, Ogden, Patterson, Ratliff, Shapiro, Sibley, Wentworth.

Nays: Barrientos, Madla, Shapleigh, Truan, West, Whitmire, Zaffirini.

Absent: Armbrister, Gallegos, Galloway, Lucio, Luna.

CSSB 1791 was read second time and was passed to engrossment by the following vote: Yeas 21, Nays 6.

Yeas: Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Harris, Haywood, Lindsay, Madla, Moncrief, Nelson, Nixon, Ogden, Patterson, Ratliff, Shapiro, Sibley, Wentworth, West.

Nays: Barrientos, Gallegos, Shapleigh, Truan, Whitmire, Zaffirini.

Absent: Armbrister, Galloway, Lucio, Luna.

**MOTION TO PLACE
COMMITTEE SUBSTITUTE
SENATE BILL 1791 ON THIRD READING**

Senator Wentworth moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1791** be placed on its third reading and final passage.

The motion was lost by the following vote: Yeas 21, Nays 6. (Not receiving four-fifths vote of Members present)

Yeas: Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Harris, Haywood, Lindsay, Madla, Moncrief, Nelson, Nixon, Ogden, Patterson, Ratliff, Shapiro, Sibley, Wentworth, West.

Nays: Barrientos, Gallegos, Shapleigh, Truan, Whitmire, Zaffirini.

Absent: Armbrister, Galloway, Lucio, Luna.

SENATE BILL 397 ON SECOND READING

On motion of Senator Gallegos and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

SB 397, Relating to the qualifications for an investment officer of a regional planning commission, council of government, or similar regional planning agency.

The bill was read second time and was passed to engrossment by a viva voce vote.

SENATE BILL 397 ON THIRD READING

Senator Gallegos moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 397** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SB 397 was read third time and was passed by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 1910 ON SECOND READING**

On motion of Senator Ratliff and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

CSSB 1910, Relating to the regulation of poultry operations.

The bill was read second time.

Senator Ogden offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 1910**, (committee printing page 3, line 12) by striking subsection (b) and substitute the following:

(b) The commission may contract with a water district created under Article XVI, Section 59 of the Texas Constitution, except for any district with jurisdiction in 6 or more counties provided the water district may not promulgate fees or additional rules.

The amendment was read and was adopted by a viva voce vote.

Senator Wentworth offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSSB 1910** as follows:

On page 1, lines 25-26, strike "turkeys, ducks, or other fowl" and substitute "or ducks".

The amendment was read and was adopted by a viva voce vote.

CSSB 1910 as amended was passed to engrossment by a viva voce vote.

RECORD OF VOTES

Senators Haywood and Nixon asked to be recorded as voting "Nay" on the passage of the bill to engrossment.

**COMMITTEE SUBSTITUTE
SENATE BILL 1910 ON THIRD READING**

Senator Ratliff moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1910** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 2.

Yeas: Armbrister, Barrientos, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Galloway, Harris, Lindsay, Lucio, Luna, Madla, Moncrief, Nelson, Ogden, Patterson, Ratliff, Shapiro, Shapleigh, Sibley, Truan, Wentworth, West, Whitmire, Zaffirini.

Nays: Haywood, Nixon.

CSSB 1910 was read third time and was passed by a viva voce vote.

RECORD OF VOTES

Senators Haywood and Nixon asked to be recorded as voting "Nay" on the final passage of the bill.

**COMMITTEE SUBSTITUTE
SENATE BILL 1455 ON SECOND READING**

Senator Lucio asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

CSSB 1455, Relating to the ability of voters in certain counties to petition a commissioners court to increase the salary of members of the county sheriff's department.

There was objection.

Senator Lucio then moved to suspend the regular order of business and take up **CSSB 1455** for consideration at this time.

The motion prevailed by the following vote: Yeas 19, Nays 6.

Yeas: Armbrister, Barrientos, Brown, Cain, Carona, Ellis, Gallegos, Lucio, Madla, Moncrief, Nelson, Patterson, Ratliff, Shapleigh, Truan, Wentworth, West, Whitmire, Zaffirini.

Nays: Duncan, Fraser, Galloway, Lindsay, Nixon, Ogden.

Absent: Bivins, Harris, Haywood, Luna, Shapiro, Sibley.

CSSB 1455 was read second time and was passed to engrossment by a viva voce vote.

RECORD OF VOTES

Senators Fraser and Ogden asked to be recorded as voting "Nay" on the passage of the bill to engrossment.

SENATE BILL 732 ON SECOND READING

Senator Galloway moved to suspend the regular order of business to take up for consideration at this time:

SB 732, Relating to granting a housing authority the authority to employ and commission peace officers.

The motion prevailed by the following vote: Yeas 25, Nays 3.

Yeas: Armbrister, Bivins, Brown, Cain, Carona, Duncan, Fraser, Galloway, Harris, Haywood, Lindsay, Lucio, Luna, Moncrief, Nelson, Nixon, Ogden, Patterson, Ratliff, Shapiro, Shapleigh, Sibley, Wentworth, West, Zaffirini.

Nays: Barrientos, Gallegos, Truan.

Absent: Ellis, Madla, Whitmire.

SB 732 was read second time and was passed to engrossment by a viva voce vote.

RECORD OF VOTES

Senators Barrientos and Gallegos asked to be recorded as voting "Nay" on the passage of the bill to engrossment.

SENATE BILL 732 ON THIRD READING

Senator Galloway moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 732** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 3.

Yeas: Armbrister, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Galloway, Harris, Haywood, Lindsay, Lucio, Luna, Moncrief, Nelson, Nixon, Ogden, Patterson, Ratliff, Shapiro, Shapleigh, Sibley, Wentworth, West, Whitmire, Zaffirini.

Nays: Barrientos, Gallegos, Truan.

Absent: Madla.

SB 732 was read third time and was passed by the following vote: Yeas 28, Nays 3.

Yeas: Armbrister, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Galloway, Harris, Haywood, Lindsay, Lucio, Luna, Madla, Moncrief, Nelson, Nixon, Ogden, Patterson, Ratliff, Shapiro, Shapleigh, Sibley, Wentworth, West, Whitmire, Zaffirini.

Nays: Barrientos, Gallegos, Truan.

SENATE BILL 400 WITH HOUSE AMENDMENT

Senator Nelson called **SB 400** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer, Senator Truan in Chair, laid the bill and the House amendment before the Senate.

Amendment

Amend **SB 400** by substituting in lieu thereof the following:

**A BILL TO BE ENTITLED
AN ACT**

relating to the creation of municipal courts of record in the City of Lewisville.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 30, Government Code, is amended by adding Subchapter II to read as follows:

SUBCHAPTER II. LEWISVILLE

Sec. 30.01321. APPLICATION. This subchapter applies to the City of Lewisville.

Sec. 30.01322. CREATION. (a) The governing body of the city may by ordinance create a municipal court of record if it determines that the formation of the court is necessary to provide a more efficient disposition of cases arising in the city. The governing body may by ordinance determine the

number of municipal courts of record that are required to dispose of the cases and may establish as many as are needed. The ordinance establishing the courts shall give each court a numerical designation, beginning with "Municipal Court of Record No. 1."

(b) On creation of the initial municipal court of record, the governing body of the city shall determine the method of selecting the judge of a municipal court of record by:

(1) adopting an ordinance that provides for the appointment of a municipal judge by the governing body of the city;

(2) adopting an ordinance that provides for the election of a municipal judge by the qualified voters of the city; or

(3) ordering an election in which the qualified voters of the city determine whether a municipal judge is appointed by the governing body of the city or elected.

(c) A municipal court of record may not exist concurrently with municipal courts that are not courts of record in the city.

(d) A municipal court of record has no terms and may sit at any time for the transaction of the business of the court.

Sec. 30.01323. JURISDICTION. (a) A municipal court of record created under this subchapter has jurisdiction within the territorial limits of the city in all criminal cases arising under the ordinances of the city.

(b) The court has concurrent jurisdiction with a justice of the peace in any precinct in which the city is located in criminal cases within the justice court jurisdiction that:

(1) arise within the territorial limits of the city; and

(2) are punishable by fine only.

(c) The court has jurisdiction over cases arising outside the territorial limits of the city under ordinances authorized by Section 215.072, 217.042, 341.903, or 401.002, Local Government Code.

Sec. 30.01324. WRIT POWER. The judge of a municipal court of record created under this subchapter may grant writs of mandamus, injunction, attachment, and other writs necessary to the enforcement of the jurisdiction of the court and may issue writs of habeas corpus in cases in which the offense charged is within the jurisdiction of the court. A municipal judge may issue administrative search warrants.

Sec. 30.01325. APPLICATION OF OTHER LAWS. The general law regarding municipal courts, the general law regarding justice courts on matters not covered by the law regarding municipal courts, and any charter provision or ordinance of the city relating to the municipal court apply to a municipal court of record unless the law, charter provision, or ordinance is in conflict or inconsistent with this subchapter.

Sec. 30.01326. JUDGE. (a) A municipal court of record is presided over by a municipal judge.

(b) If more than one municipal judge is elected or appointed in the city, the governing body of the city shall appoint one of the judges to be the chief judge.

(c) A municipal judge, including the chief judge, is appointed or elected for a term of two years.

(d) A municipal judge must be a licensed attorney in good standing in this state and must have two or more years of experience in the practice of law in this state. The judge must be a citizen of the United States and of this state. The judge shall devote as much time to the office as it requires.

(e) If more than one municipal court of record is created, the judges may exchange benches and may sit and act for each other in any proceeding pending in the courts. An act performed by any of the judges is binding on all parties to the proceeding.

(f) A municipal judge is entitled to receive a salary from the city, the amount of which is determined by the governing body of the city and may not be diminished during the judge's term of office. The salary may not be based directly or indirectly on fines, fees, or costs collected by the court.

Sec. 30.01327. VACANCIES; TEMPORARY REPLACEMENT; REMOVAL. (a) If a vacancy occurs in the office of municipal judge, the governing body of the city shall appoint a qualified person to fill the office for the remainder of the unexpired term.

(b) The governing body may appoint one or more qualified persons to be available to serve for a municipal judge who is temporarily absent due to illness, family death, continuing legal or judicial education programs, or any other reason. The chief judge, or the municipal judge if there is not a chief judge, shall select one of the persons appointed by the governing body to serve during an absence. An alternate judge, while serving, has all the powers and shall discharge all the duties of a municipal judge. An alternate judge must have the same qualifications as a municipal judge.

(c) A municipal judge may be removed from office by the governing body of the city at any time for incompetency, misconduct, malfeasance, or disability.

Sec. 30.01328. CLERK; OTHER PERSONNEL. (a) The city manager of the city shall appoint a clerk of the municipal court of record who shall be known as the "Lewisville Municipal Court Clerk."

(b) The clerk may hire, direct, and remove the personnel authorized in the city's annual budget for the clerk's office.

(c) The clerk or the clerk's deputies shall keep the records of the municipal courts of record, issue process, and generally perform the duties for the courts that a clerk of the county court exercising criminal jurisdiction is required by law to perform for that court. The clerk shall perform the duties in accordance with statutes, the city charter, and city ordinances.

Sec. 30.01329. COURT REPORTER. (a) The city shall provide a court reporter for the purpose of preserving a record in cases tried before the municipal court of record. The clerk of the court shall appoint the court reporter, who must meet the qualifications provided by law for official court reporters. The reporter shall be compensated by the city in the manner determined by the governing body of the city.

(b) The court reporter may use written notes, transcribing equipment, video or audio recording equipment, or a combination of those methods to record the proceedings of the court.

(c) The court reporter is not required to record testimony in a case unless the judge or one of the parties requests a record. A party's request for a record must be in writing and be filed with the court before trial or any hearing.

(d) The governing body of the city may provide that, in lieu of the city providing a court reporter at trial, proceedings in a municipal court of record may be recorded by a good quality electronic recording device. If the governing body authorizes the electronic recording, the court reporter need not be present at trial to record the proceedings or to certify the statement of facts. The recording shall be kept and stored for the 20-day period beginning the day after the last day of the proceeding, trial, or denial of motion for new trial, whichever occurs last. The proceedings that are appealed shall be transcribed from the recording by an official court reporter, clerk of court, deputy clerk of court, or a notary public.

(e) The court reporter shall certify the official record.

Sec. 30.01330. PROSECUTIONS BY CITY ATTORNEY. All prosecutions in the municipal court of record must be conducted by the city attorney or an assistant or deputy city attorney.

Sec. 30.01331. COMPLAINT; PLEADING. (a) A proceeding in a municipal court of record begins with the filing of a complaint. A complaint must begin "In the name and by authority of the State of Texas" and must conclude "Against the peace and dignity of the State." If the offense is only covered by an ordinance, it may also conclude "Contrary to said ordinance."

(b) Complaints must comply with Article 45.17, Code of Criminal Procedure.

(c) Pleadings must be in writing and must be filed with the municipal court clerk.

Sec. 30.01332. JURY. (a) A person who is brought before a municipal court of record and who is charged with an offense is entitled to be tried by a jury of six persons unless that right is waived according to law. The jury shall decide all questions of fact or credibility of witnesses. The court shall determine all matters of law and shall charge the jury on the law.

(b) A juror who serves in a municipal court of record must have the qualifications required of jurors by law and must be a resident of the city.

(c) A juror is entitled to receive compensation for each day and each fraction of a day in attendance on a municipal court of record as provided by Chapter 61.

(d) The municipal court clerk shall establish a fair, impartial, and objective juror selection process.

Sec. 30.01333. COURT RULES. (a) Except as modified by this subchapter, the Code of Criminal Procedure as applied to county courts at law governs the trial of cases before municipal courts of record.

(b) Bonds must be payable to the state for the use and benefit of the city. The court may not assess court costs other than warrant fees, capias fees, and other fees authorized for municipal courts.

(c) A peace officer may serve a process issued by a municipal court of record.

(d) Fines, fees, costs, and bonds shall be paid to the municipal court clerk, who shall deposit them in the city general fund.

Sec. 30.01334. APPEAL. (a) A defendant has the right of appeal from a judgment or conviction in a municipal court of record as provided by this subchapter. The state has the right to an appeal as provided by Article 44.01.

Code of Criminal Procedure. The county court of Denton County that has appellate criminal jurisdiction shall hear the appeal.

(b) The appellate court shall determine each appeal from a municipal court of record conviction on the basis of the errors that are set forth in the defendant's motion for new trial and that are presented in the transcript and statement of facts prepared from the proceedings leading to the conviction. An appeal from the municipal court of record may not be by trial de novo.

(c) To perfect an appeal, the defendant or state must file with the municipal court clerk a written motion for new trial not later than the 10th day after the date on which the judgment and sentence are rendered. The motion must set forth the points of error of which the defendant complains. The motion constitutes the assignment of the error in appeal. A ground or an error not set forth in the motion is waived. If the court does not act on the motion before the expiration of 30 days after the judgment and sentence is rendered by the court, the motion is overruled by operation of law.

(d) After an order overruling a motion for new trial, the defendant or state shall give written notice of appeal and pay the transcript preparation fee not later than the 10th day after the date on which the motion is overruled. The governing body shall set a reasonable transcript preparation fee. The clerk shall note the payment of the fee on the docket of the court. If the case is reversed on appeal, the fee shall be refunded to the appellant.

(e) The city attorney or the assistant or deputy city attorney shall prosecute all appeals from the municipal courts of record.

Sec. 30.01335. APPEAL BOND; RECORD ON APPEAL. (a) If the defendant is not in custody, the defendant may not take an appeal until the defendant files an appeal bond with the municipal court of record. The bond must be approved by the court and must be filed not later than the 10th day after the date on which the motion for new trial is overruled. If the defendant is in custody, the defendant shall be committed to jail unless the defendant posts the appeal bond.

(b) The appeal bond must be in the amount of \$50 or double the amount of the fine and costs adjudged against the defendant, whichever is greater. The bond must:

(1) state that the defendant was convicted in the case and has appealed;

(2) be payable to the state for the use and benefit of the city; and

(3) be conditioned on the defendant's appearance in the court to which the appeal is taken.

(c) The record on appeal consists of a transcript and, if necessary to the appeal, a statement of facts. The court reporter shall prepare the record from the reporter's record or mechanical, audiotape, or videotape recordings of the proceedings. The appellant shall pay for the cost of the transcription and statement of facts. If the case is reversed on appeal, the court shall promptly refund the cost to the appellant. If the court finds that the defendant is unable to pay or give security for the record on appeal after a hearing in response to an affidavit by the defendant, the court shall order the reporter to prepare the record without charge to the defendant.

Sec. 30.01336. TRANSCRIPT. (a) On the written request of the appellant or appellant's attorney, the municipal court clerk shall prepare, under the clerk's hand and seal of the court, a transcript of the municipal court of record proceedings, after payment of the transcript preparation fee. The clerk shall prepare the transcript under written instructions from the defendant or defendant's attorney.

(b) Unless otherwise agreed by the parties in writing, the transcript must include a copy of:

- (1) the complaint;
- (2) court orders on any motions or exceptions;
- (3) the judgment;
- (4) the verdict of the jury;
- (5) any findings of fact or conclusions of law made by the court;
- (6) the motion for new trial and the order of the court on the motion;
- (7) the notice of appeal;
- (8) any statement of the parties regarding material to be included in the record;
- (9) the appeal bond; and
- (10) any signed paper designated as material by either party.

(c) The appellant or appellant's attorney shall file a copy of the written instructions with the clerk and shall deliver a copy to the appellee.

(d) The appellee shall file a written direction to the clerk if additional portions of the trial proceedings in the transcript are to be included.

Sec. 30.01337. BILLS OF EXCEPTION. Either party may include bills of exception in the transcript subject to the applicable provisions of the Texas Rules of Appellate Procedure. The bills of exception must be filed with the municipal court clerk not later than the 60th day after the date on which the notice of appeal is given or filed.

Sec. 30.01338. STATEMENT OF FACTS. (a) A statement of facts included in the record on appeal must contain:

- (1) a transcript of all or part of the municipal court of record proceedings that are shown by the notes of the court reporter to have occurred before, during, or after the trial, if the transcript is requested by the defendant;
- (2) a brief statement of the facts of the case proven at trial as agreed to by the defendant and the prosecuting attorney;
- (3) a partial transcript and the agreed statement of the facts of the case; or

(4) a transcript of all or part of the municipal court of record proceedings in the case that is prepared from mechanical, audiotape, or videotape recordings of the proceedings.

(b) The court reporter shall transcribe in duplicate any portion of the recorded proceedings or the notes of the court proceedings in the case at the request of either party or the municipal judge. The appellant shall pay for the transcription unless the court finds, after hearing in response to an affidavit by the defendant, that the defendant is unable to pay or give security for the transcription. On certification by the court that the court reporter has rendered the service without charge to the defendant, the court reporter shall be paid for the services by the city.

Sec. 30.01339. COMPLETION, APPROVAL, AND TRANSFER OF RECORD. (a) Not later than the 60th day after the date on which the notice of appeal is given or filed, the parties must file with the municipal court clerk:

- (1) the statement of facts;
- (2) a written description of material to be included in the transcript in addition to the required material; and
- (3) any material to be included in the transcript that is not in the custody of the clerk.

(b) On completion of the record, the municipal judge shall approve the record in the manner provided for record completion, approval, and notification in the court of appeals.

(c) After the court approves the record, the clerk shall promptly send it to the appellate court clerk for filing. The appellate court clerk shall notify the defendant and the prosecuting attorney that the record has been filed.

Sec. 30.01340. BRIEF ON APPEAL. (a) An appellant's brief on appeal from a municipal court of record must present points of error in the manner required by law for a brief on appeal to the court of appeals.

(b) The appellant must file the brief with the appellate court clerk not later than the 15th day after the date on which the transcript and statement of facts are filed with that clerk. The appellant or appellant's attorney must certify that the brief has been properly mailed to the appellee.

(c) The appellee must file the appellee's brief with the appellate court clerk not later than the 15th day after the date on which the appellant's brief is filed.

(d) On filing, each party shall deliver a copy of the brief to the opposing party and to the municipal judge.

(e) To avoid unnecessary delay, the record and briefs on appeal shall be limited as far as possible to the questions relied on for reversal.

Sec. 30.01341. DISPOSITION ON APPEAL. (a) According to law and the nature of the case, the appellate court may:

- (1) affirm the judgment of the municipal court of record;
- (2) reverse and remand for a new trial;
- (3) reverse and dismiss the case; or
- (4) reform and correct the judgment.

(b) Unless the matter was made an issue in the trial court or it affirmatively appears to the contrary from the transcript or the statement of facts, the appellate court shall presume that:

- (1) venue was proven in the trial court;
- (2) the jury, if any, was properly impaneled and sworn;
- (3) the defendant was arraigned and pleaded to the complaint; and
- (4) the municipal judge certified the charge and the clerk filed the charge before it was read to the jury.

(c) In each case decided by the appellate court, the court shall deliver a written opinion or order either sustaining or overruling each assignment of error presented. The court shall state the reasons for its decision. The appellate court clerk shall mail copies of the decision to the parties and to the municipal judge as soon as the decision is rendered.

Sec. 30.01342. CERTIFICATION OF APPELLATE PROCEEDINGS. When the judgment of the appellate court becomes final, the clerk of that court shall certify the proceedings and the judgment and shall mail the certificate to the municipal court of record. The court clerk shall file the certificate with the papers in the case and note the certificate on the case docket. If the municipal court of record judgment is affirmed, further action to enforce the judgment is not necessary except to:

- (1) forfeit the bond of the defendant;
- (2) issue a writ of capias for the defendant; or
- (3) issue an execution against the defendant's property.

Sec. 30.01343. EFFECT OF ORDER OF NEW TRIAL. If the appellate court awards a new trial to the defendant, the case stands as if a new trial had been granted by the municipal court of record.

Sec. 30.01344. APPEAL TO COURT OF APPEALS. The defendant has the right to appeal to the court of appeals if the fine assessed against the defendant exceeds \$100 and if the judgment is affirmed by the appellate court. The provisions of the Code of Criminal Procedure relating to direct appeals from a county or a district court to the court of appeals apply to the appeal, except that:

- (1) the record and briefs on appeal in the appellate court constitute the record and briefs on appeal to the court of appeals unless the rules of the court of criminal appeals provide otherwise; and
- (2) the record and briefs shall be filed directly with the court of appeals.

Sec. 30.01345. SEAL. The governing body of the city shall provide each municipal court of record with a seal with a star of five points in the center and the words "Municipal Court in Lewisville, Texas." The impress of the seal shall be attached to all papers, except subpoenas, issued out of the court and shall be used by each municipal court judge or the municipal clerk to authenticate all official acts of the clerk and the judge.

SECTION 2. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was read.

Senator Nelson moved to concur in the House amendment to SB 400.

The motion prevailed by the following vote: Yeas 31, Nays 0.

AT EASE

The Presiding Officer at 2:05 p.m. announced the Senate would stand At Ease subject to the call of the Chair.

IN LEGISLATIVE SESSION

Senator Truan at 2:10 p.m. called the Senate to order as In Legislative Session.

SENATE RULES SUSPENDED
(Posting Rules)

On motion of Senator Moncrief and by unanimous consent, Senate Rule 11.11 and Senate Rule 11.19 were suspended in order that the Committee on Administration might meet today and consider bills for the Local and Uncontested Calendar.

SENATE RULE 11.19 SUSPENDED
(Posting Rule)

On motion of Senator Barrientos and by unanimous consent, Senate Rule 11.19 was suspended in order that the Committee of the Whole Senate on Legislative and Congressional Redistricting might consider the following bill and resolution tomorrow: **SB 1564, SJR 41**

NOTICE GIVEN FOR
LOCAL AND UNCONTESTED CALENDAR

Senator Sibley announced that a Local and Uncontested Calendar had been furnished to each Member of the Senate. He then gave notice that the Local and Uncontested Calendar Session would be held tomorrow upon conclusion of the daily session, and that all bills and resolutions would be considered on second and third reading in the order in which they were listed.

MEMORIAL RESOLUTIONS

SR 610 - by Patterson: In memory of Sammy L. Griffith of North Richland Hills.

SR 611 - by Patterson: In memory of the life of David Keith Tankersley of Gladewater.

SR 612 - by Shapleigh: In memory of Maria del Socorro Ramirez of El Paso.

SR 614 - by Sibley: In memory of State Senator Thomas W. Creighton of Mineral Wells.

CONGRATULATORY RESOLUTIONS

SR 608 - by Whitmire: Commending Langston G. Knowles of Houston.

SR 609 - by Sibley: Congratulating Kirsten Dietz of Austin.

SR 613 - by Haywood: Commending the Times Publishing Company in Wichita Falls.

SR 615 - by Barrientos: Commending Edith F. Williams.

SR 616 - by Barrientos: Congratulating Brian Allen Bibeau of Austin.

SR 618 - by Ellis: Commending Eddye M. Denmon of Houston.

ADJOURNMENT

On motion of Senator Brown, the Senate at 2:15 p.m. adjourned, in memory of Henry Allen Brown of Dallas and in memory of the life of Dr. Marion Rice Zetzman, until 10:00 a.m. tomorrow.

APPENDIX

COMMITTEE REPORTS

The following committee reports were received by the Senate:

April 30, 1997

JURISPRUDENCE — CSHB 515, HB 1550 (Amended), HB 1826 (Amended), HB 1916 (Amended), CSSB 1594, SB 1563 (Amended)

CRIMINAL JUSTICE — SB 612, HB 485, HB 749, HB 1050, HB 1545, HB 2826

JURISPRUDENCE — CSSB 1561

INTERGOVERNMENTAL RELATIONS — CSSB 1930

CRIMINAL JUSTICE — HB 1155 (Amended)

STATE AFFAIRS — CSSB 1066, CSSB 1469, CSSB 1850, HB 1836 (Amended), HB 1077 (Amended), HB 255 (Amended), HB 711 (Amended), CSSB 130, CSSB 993, SB 14 (Amended)

ADMINISTRATION — CSSB 984

CRIMINAL JUSTICE — CSSB 12, CSSB 108, CSSB 1232, SB 1835 (Amended), CSSB 1827, HB 1386 (Amended)

ECONOMIC DEVELOPMENT — HB 2373, HB 2193, HB 2015, HB 1902, HB 1901, HB 1149, CSSB 1937

SENT TO SECRETARY OF STATE

April 30, 1997

SJR 19

SENT TO GOVERNOR

April 30, 1997

SB 120, SB 161, SB 163, SB 446, SB 460, SB 484, SB 492, SB 538, SB 590, SB 634, SB 730, SB 800, SB 819, SB 886, SB 1060, SB 1487, SB 1755, SCR 28, SCR 63

In Memory**of****Dr. Marion Rice Zetzman**

Senator Sibley offered the following resolution:

(Senate Concurrent Resolution 79)

WHEREAS, The Texas Legislature was deeply saddened by the untimely death of Dr. Marion Rice Zetzman, Chairman of the Center for Rural Health Initiatives' Executive Committee, on November 7, 1996, at the age of 57; and

WHEREAS, The passing of such an esteemed Texan has brought a sense of great loss to the state and to the relatives and friends of this distinguished public health policy leader; and

WHEREAS, Appointed to the Executive Committee of the Center for Rural Health Initiatives by Lieutenant Governor Bob Bullock and former Lieutenant Governor William P. Hobby, Dr. Zetzman had served as chairman since its creation; and

WHEREAS, A longtime advocate for rural health issues, Dr. Zetzman was deeply involved in the development of the center since it was founded in 1989, and he had envisioned the center as a vital component to address the health needs of three million rural Texans; and

WHEREAS, Before his appointment to the Executive Committee of the Center for Rural Health Initiatives, Dr. Zetzman had been appointed to chair the Statewide Health Coordinating Council from 1984 to 1990 by two former governors, Mark White and William P. Clements; and

WHEREAS, Recognized for his leadership abilities and dedication to Texans living in rural areas, Dr. Zetzman had served Governor Preston Smith for four years in the Governor's Office of Comprehensive Health Planning and was named associate director of the office in 1972; and

WHEREAS, Born and reared in Roscoe, a community near Sweetwater with a population just over 1,400, Dr. Zetzman was proud of his rural Texas heritage and learned early in his life about the needs of underserved rural communities; he maintained a lifelong commitment to improving health care services for his rural friends; and

WHEREAS, He became an assistant professor at The University of Texas Southwestern Medical Center in Dallas in 1973, a tenure that lasted 23 years, and served as chairman of Southwestern's Division of Community Medicine and Epidemiology for two decades; and

WHEREAS, His career in public health began in 1962 as a Public Health Advisor at the United States Public Health Service, Centers

for Disease Control; he later became a Public Health Sanitarian in the Sweetwater-Nolan County Health Department; and

WHEREAS, A graduate of Hardin-Simmons University, Dr. Zetzman earned his Master of Public Health degree from Tulane University and his Doctor of Public Health degree from the School of Public Health of The University of Texas Health Science Center at Houston in 1972; and

WHEREAS, A man of exceptional abilities and vision, he shared his expertise with his colleagues as a member of the editorial board of the *Texas Journal of Rural Health*, chairman of The University of Texas System Telemedicine Committee, and Health Policy Consultant to the Office of the Executive Vice Chancellor for Health Affairs of The University of Texas System in Austin; and

WHEREAS, A fellow and member of the governing board of the American Public Health Association, he was a 32nd degree Scottish Rite Mason affiliated with the Dallas Consistory; and

WHEREAS, A fine public servant whose energy and vision left a legacy of enduring accomplishments, Dr. Marion Rice Zetzman will be greatly missed by all who were fortunate to know him and who benefitted from his exemplary work; now, therefore, be it

RESOLVED, That the Legislature of the State of Texas hereby extend sincere condolences to the family of Dr. Marion Rice Zetzman: his beloved wife, Sara; and his son, Phillip Marion; and, be it further

RESOLVED, That a copy of this resolution be prepared for his family as an expression of deepest sympathy from the Texas Legislature, and that when the Legislature adjourns this day, it do so in memory of Dr. Marion Zetzman.

The resolution was read.

On motion of Senator Brown and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

On motion of Senator Sibley and by unanimous consent, the resolution was considered immediately and was adopted by a rising vote of the Senate.

In Memory**of****Henry Allen Brown**

Senator West offered the following resolution:

(Senate Resolution 607)

WHEREAS, The Senate of the State of Texas joins the citizens of Dallas in mourning the tragic loss of Police Officer Henry Allen Brown, who died in the line of duty on April 25, 1997; and

WHEREAS, The veteran officer was well liked and respected by the members of the Dallas police force, and his death will be deeply felt throughout the metroplex; and

WHEREAS, A member of the department's southwest patrol division, Officer Brown joined the Dallas force in 1990 and had earned 35 commendations, including two awards for lifesaving; he was commended for quick and correct actions and praised for his unselfish efforts to save a young life; and

WHEREAS, Well aware of the potential dangers of police work, Officer Brown spent countless hours helping people and investigating accidents; he carried out his duties with efficiency and dedication regardless of the risks involved; and

WHEREAS, The exemplary patrolman was a devoted family man who was proud of his wife, Edwina, and their son, Michael; he leaves a legacy of compassion and commitment that will continue to live in the hearts and minds of all who loved him and shared his friendship; and

WHEREAS, The people of Texas owe a debt of gratitude to Police Officer Henry Brown for his exceptional contributions to the lives of others; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 75th Legislature, hereby extend sincere condolences to the family of Henry Allen Brown: his wife, Edwina; his son, Michael; his mother, Illiffie Watson; his father, Sammy Brown; his sisters, Robin West, Lynette Brown, and Lisa Brown; and his grandparents, Pete and Odessa Brown and Burton Dillard; and, be it further

RESOLVED, That a copy of this Resolution be prepared for his family as an expression of deepest sympathy from the Texas Senate, and that when the Senate adjourns this day, it do so in memory of Henry Allen Brown.

The resolution was read.

On motion of Senator Brown and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

On motion of Senator West and by unanimous consent, the resolution was adopted by a rising vote of the Senate.

